

**JOINT WORK SESSION OF THE
VINEYARD PLANNING COMMISSION & CITY COUNCIL
AND A SPECIAL PLANNING COMMISSION SESSION
Vineyard City Hall, 125 S Main Street, Vineyard, Utah
Wednesday, October 30, 2019 at 6:00 p.m.**

PUBLIC NOTICE is hereby given that the Planning Commission and City Council of Vineyard, Utah, will hold a work session and public hearing and the Planning Commission will hold a special session on Wednesday, October 30, 2019 at 6:00 p.m. in the Vineyard City Hall, 125 South Main Street, Vineyard, Utah. The agenda will consist of the following:

1. CALL TO ORDER

2. JOINT WORK SESSION:

2.1 PRESENTATION - Form-based Code

Community Development Director Morgan Brim will do a presentation on the Town Center Form-based code.

2.2 PUBLIC HEARING - Town Center Master Development Agreement

Joint Planning Commission and City Council public hearing of a proposed Development Agreement between the City of Vineyard, the Vineyard Redevelopment Agency, and Anderson Geneva, LLC, a Delaware limited liability company and Ice Castle Retirement Fund, L.L.C., a Delaware limited liability company for the property known as the Vineyard Town Center. The property contains approximately 336 acres and is located north of the Vineyard Connector, west of the Utah Provo Main Railway, south of 1600 North and east of the Utah Lake shoreline. Parcel numbers include: 17:024:0001, 17:024:0002, 40:455:0074, 40:455:0075, 40:455:0077, 17:026:0045. The Development Agreement proposes donation of land to the City of Vineyard for park space, a lake promenade, and trail corridors. The Development Agreement addresses future parking spaces, open space, back bone infrastructure like roadways, sidewalks, storm water facilities, public utilities and amenities associated with the future UTA Front Runner Train Station. The property is zoned as Vineyard Town Center Form Based District.

3. SPECIAL PLANNING COMMISSION SESSION

3.1 DISCUSSION AND ACTION – Town Center Master Development Agreement

The Planning commission will discuss and possibly make a recommendation to the City Council for approval (or denial) of the Town Center Master Development Agreement.

4. ADJOURNMENT

The next regularly scheduled meeting planning commission meeting is November 6, 2019.

This meeting may be held electronically to allow a commissioner or councilmember to participate by teleconference.

The Public is invited to participate in all Planning Commission meetings. In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this public meeting should notify Elizabeth Hart, Planner, at least 24 hours prior to the meeting by calling (801) 226-1929.

The foregoing notice and agenda was emailed to the Salt Lake Tribune, posted on the Utah Public Notice Website and Vineyard Website, posted at the Vineyard City Offices, and delivered electronically to city staff and each member of the Planning Commission and City Council.

AGENDA NOTICING COMPLETED ON:

NOTICED BY: /s/ Pamela Spencer

Pamela Spencer, City Recorder

LAND DONATION AND DEVELOPMENT AGREEMENT

THIS LAND DONATION AND DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered as of the _____ day of October 2019 (the “Effective Date”), by and between Vineyard City, a Utah municipal corporation (the “City”), the Vineyard Redevelopment Agency, a political subdivision of the State of Utah (the “RDA” or “Agency”), and Anderson Geneva, LLC, a Delaware limited liability company (“AG”) and Ice Castle Retirement Fund, L.L.C., a Delaware limited liability company (“Ice Castle” and, collectively with AG, the “Developer”), individually a “Party” or collectively the “Parties.”

RECITALS

A. In 2005, Developer acquired approximately 1,700 acres of land located within Vineyard, Utah County, State of Utah that was a steel mill principally operated by the United States Steel Corporation commencing in 1946 and by the Geneva Steel Company commencing in 1989. Operations as a steel mill ceased on the Property in 2002 (the “Mill Property”).

B. Within the Mill Property is approximate 336 acres that the City, in cooperation with Developer, has designated as the Vineyard Town Center (the “Property”). The Property is more particularly described in Exhibit A, attached hereto.

C. The Property lies within the Vineyard Town Redevelopment Project Area and is also governed by the Geneva Urban Renewal Area Project Area Plan as amended February 9, 2011 (the “Plan”).

D. The Property is further part of the Special Purpose Zoning District designated as the “Vineyard Town Center Form Based Code,” as adopted by ordinance by the City on September 23, 2015, which is attached hereto as Exhibit B (the “Code”).

E. Pursuant to ordinance, the Code designates the Property into six (6) districts, including the Town Center Station, Town Center Mixed Use, Village Office, Lake Front Commercial, Lake Front Residential, and Geneva Park (collectively the “Town Center Districts”). The Code also provides for a Lake Promenade area consisting of open space and other improvements as provided in the Code. Exhibit C contains a map showing generally the Lake Promenade area. The Town Center Districts and the Lake Promenade are depicted on a map found on page 6 of the Code and as reflected on the attached Exhibit D (the “Town Center Map”).

F. Developer is developing the Property under the Code which allows the Property to be developed in a systematic manner (the “Project”).

G. Developer has and continues to be in the process of marketing and selling portions of the Property for development.

H. Within the Town Center Districts and the Lake Promenade shall be located and installed certain system improvements as well as surface and subsurface backbone infrastructure

consisting in general of the main publically dedicated and maintained streets, sewer mains, lines and facilities, storm water lines and facilities, power facilities, surface and underground utility lines and facilities, public park improvements as described in the Code to the Lake Promenade and other properties, roadways, structured parking areas consisting of constructed parking facilities of more than asphalted, surface-parked parking lots (“Parking Structures”) along with the necessary structural fill, pilings, foundations and other improvements to accommodate such Parking Structures, curb, gutter, sidewalks, water, lines and facilities, train station buildings and improvements, needed to develop the Project in the Town Center Station and in the Town Center Mixed Use Districts all of which will be installed, paid for or reimbursed as part of the redevelopment of the area at the cost of the Agency (the “Backbone Infrastructure”). Attached as Exhibit E is an itemization of the Backbone Infrastructure. For avoidance of doubt, for purposes of this Agreement, Parking Structures may be above or below ground or both, may be located under or near a building or buildings it serves and may replace surface only parking lots.

I. The City and Agency, acting pursuant to its authority under Utah Code Annotated, §§10-9a-101, et seq., and in furtherance of the Plan and the Code and its land use policies, goals, objectives, ordinances, resolutions, and regulations has made certain determinations with respect to the Project, and approves this Agreement.

J. Fulfillment of this Agreement is vital to and in the best interests of the City and the RDA, and the health, safety, and welfare of its residents, and in accord with public purposes. This Agreement is carried out pursuant to the Utah Community Development and Renewal Agencies Act, Title 17C of the Utah Code Annotated (the “Act”), the Plan, and the Code.

K. The Project and its development are subject to and shall conform with the Plan, the Code, and all Applicable City ordinances, rules and regulations to the extent specified in this Agreement, including, but not limited to, the provisions of the City’s General Plan, the City’s ordinances, regulations and engineering standards and specifications, all as previously adopted by the City as set forth and as otherwise set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City, Agency and Developer hereby agree as follows;

1. Incorporation of Recitals. The foregoing Recitals and Exhibits attached hereto are hereby incorporated into this Agreement.

2. Property Affected by This Agreement. The legal description of the Property contained within the Project boundaries as attached and specifically described in Exhibit A and as depicted in the Town Center Map (Exhibit D). No additional property may be added to or deleted from this description for purposes of this Agreement except by written amendment to this Agreement executed and approved by the Parties hereto.

3. Land Donation by Developer. As further consideration for this Agreement, Developer agrees to donate to the City the Lake Promenade property (the “Lake Promenade Property”) comprising approximately 16 acres of the Property including Promenade Street right of way as depicted generally for illustration purposes in green color as the Lake Promenade on the Town Center Map (Exhibit D) and on Exhibit C. Developer agrees that the Lake Promenade Property will be environmentally remediated, as may be necessary, to a State of Utah Department of Environmental Quality (“DEQ”) approved level prior to being conveyed to the City. The Parties agree that the Lake Promenade Property’s donative value will be established by a MAI appraisal for income tax donation purposes. The City shall assume full responsibility for the ownership and maintenance of the Lake Promenade Property and all improvements thereon after acceptance of same.

4. Vested Rights.

a. City Approval. City and RDA enter into this Agreement after taking all necessary actions to enter into the agreements and understandings set forth herein. City’s enactment of the resolution approving this Agreement, and entering into this Agreement, are legislative acts allowed and authorized by Utah Code § 10-9a-101, *et seq.*, including specifically Utah Code §10-9a-102(2).

b. Vested Rights. The City and the RDA agree that, to the maximum extent permissible under state and federal law, Developer, and any and all of its purchasers, transferees, affiliates, successors and assigns (collectively, the “Successors and Assigns”) shall have the vested right to own, develop and construct any and all portions of the Project in accordance with this Agreement, the Code, the Plan and Applicable City Laws (as defined below). For purposes of this Agreement, “Successors and Assigns” also includes the purchasers, transferees and affiliates of any Successor and Assign, at any step removed. These vested development rights are subject to compliance with the terms and conditions of this Agreement, the Code, the Plan and Applicable City Laws. For purposes of this Agreement, “Applicable City Laws” means:

i. all laws, ordinances, policies, standards, guidelines, directives, procedures and processing fee schedules of City in effect as of the date of this Agreement;

ii. only the following laws, ordinances, policies, standards, guidelines, directives, procedures and processing fee schedules of City which are not in effect as of the date of this Agreement but which are in effect in the future at any time when a development application is submitted (“Future City Laws”):

1. Future City Laws which are generally applicable to all properties in the City’s jurisdiction and which are required to comply with State and Federal laws and regulations affecting the Property;

2. Future City Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, or similar

construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

3. Future City Laws that are health and environmental standards based on the City's obligations to comply with Federal or State environmental laws;

4. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated;

5. Changes to the amounts of fees (but not changes to the times provided in the City's existing laws for the imposition or collection of such fees) for the processing of development applications that are generally applicable to all development within City's jurisdiction (or a portion of the City as specified in the lawfully adopted fee schedule) and which are lawfully adopted pursuant to State law; or

6. Impact fees or modifications thereto which are lawfully adopted, imposed and collected.

7. Other Future City Laws which Developer, at its sole discretion, elects to be applicable.

c. Phasing of the Project. City and RDA agree that Developer shall have the full power and exclusive control of the Property. Nothing in this Agreement shall obligate Developer (or its Successors and Assigns) to develop the Property or to develop in any particular order or phase and that Developer reserves all discretion to determine whether to develop a particular portion or phase of the Property based upon Developer's business judgment.

d. Annual Updates. The Developer shall provide annual updates to the City and Agency about its progress and plans for development of the Project.

5. Successors and Assigns of Developer in the Ownership or Development of any Portion of the Project.

a. Transfer of Development. It is contemplated that Developer will sell various portions of the Property to one or more Successors and Assigns who will develop specific projects on their respective portions of the Property. Developer shall be entitled to transfer any or all portions of the Property to any Successors and Assigns subject to the terms of this Agreement. In the event of any such transfer of Developer's interest in the Property, the Successors and Assigns shall be deemed to be Developer for all purposes under this Agreement but only with respect to that portion of the Property so transferred. Except as set forth in Section

8(a) with respect to the Lake Promenade, nothing in this Section shall prohibit Developer from selling any portion of the Property to one or more Successors and Assigns for any purpose, and such Successors and assigns may erect, construct, maintain, and operate (or cause to be erected, constructed, maintained, and operated) improvements thereon consistent with the requirements of this Agreement, the Code, and the Plan and Applicable City Laws. The provisions of this Section shall not prohibit the granting of any security interests, liens or mortgages on any portion of the Property for financing the acquisition and development of development parcels within the Project, subject to Developer and any Successors and Assigns complying with this Agreement, the Code, the Plan and Applicable City Laws.

b. Release of the Developer. In the event of a transfer of any portion of the Property to any Successors and Assigns the respective Successor and Assign shall have the same rights and obligations as Developer under this Agreement in relation to that portion of the Property so transferred, and Developer executing this Agreement shall be released from any further obligations with respect to that portion of the Property. Upon any such transfer, Developer shall provide notice of such transfer to City and Agency within thirty (30) days after the transfer occurs.

6. Infrastructure.

a. General. As part of the development of any portion of the Project, Developer and any Successors and Assigns may in the future be required to install or otherwise facilitate certain public improvements in order to provide access, infrastructure and municipal services to the Property, the Project and adjoining properties which public improvements may also benefit the City as a whole and which are in conformity with the Code, the Plan and this Agreement. Any such requirement or exaction shall comply with applicable law.

b. Future Impact Fees. Developer or any Successors and Assigns, who develop portions of the Property, may, in the future, be assessed impact fees calculated by the City in accordance with Applicable City Laws. Nothing contained herein shall exempt, release, or excuse Developer and any Successors and Assigns, who develop portions of the Property from paying validly imposed reasonable future impact fees and other reasonable fees and charges required for development of the Property, or any portion thereof, pursuant to law.

c. RDA Reimbursements for Backbone Infrastructure. The RDA shall reimburse to Developer (and any Successor and Assign, but only if and to the extent such right to reimbursement is expressly assigned in writing by Developer to such Successor and Assign) for the actual costs incurred for the Backbone Infrastructure (the “Infrastructure Reimbursable Costs”) from property tax increment received by the RDA from the Property within the Project owned by Developer or owned by each Successor and Assign. The City and the RDA acknowledge and agree that Developer may retain and collect all or any portion of the property tax increment regardless of whether the Infrastructure Reimbursable Costs are incurred or the corresponding work is performed by Developer or by its Successors and Assigns. The tax increment shall be paid on the following terms and conditions:

i. The amount reimbursed to Developer and to Successors and Assigns, if any, expressly entitled to reimbursement from RDA tax increment received by the RDA for each taxable year shall be equal to the available tax increment minus actual or estimated Agency Tax Increment Costs (as defined below) (the “Available Tax Increment”) generated in that same taxable year by taxes collected on property and received by the RDA within the Project, or each portion thereof, owned by or developed by Developer and each and Successors and Assigns, if any, expressly entitled to reimbursement until all Infrastructure Reimbursable Costs for Backbone Infrastructure have been reimbursed to Developer and Successors and Assigns, if any, expressly entitled to reimbursement;

ii. The Available Tax Increment shall be equal to the total tax increment generated by the Property and received by the RDA within the Project (the “Total Tax Increment”) minus administrative costs and income-targeted housing funds (but only if and to the extent that environmental remediation costs are estimated to be less than 20% of the total uses of RDA funds) (collectively the “Agency Tax Increment Costs”). The Parties agree that the Agency Tax Increment Costs shall not be more than twenty- six percent (26%) of the Total Tax Increment generated by the Property and received by the Agency from within the Project.

iii. The monies expended by or fronted to the City and Agency by Developer and its Successors and Assigns, if any, expressly entitled to reimbursement for the installation of the Backbone Infrastructure shall accumulate interest, at a rate of seven and one-half percent (7.5%) per annum until paid. Such interest shall accumulate continuously compounding on any unreimbursed funds, beginning from the date actual monies are paid by Developer and each Successor and Assign for its Infrastructure Reimbursable Costs. All amounts paid to Developer and its Successors and Assigns, if any, expressly entitled to reimbursement shall be applied first against accrued interest and then against Infrastructure Reimbursable Costs.

iv. The City and the RDA shall activate or trigger the collection and receipt of RDA tax increment for the corresponding area covering the Property within the Project owned by Developer and its Successors and Assigns upon the later of (1) the written request of the Developer, or (2) December 1, 2020.

v. The City and the RDA shall have the right, but not the obligation, to prepay the Infrastructure Reimbursable Costs through other sources of funds such as bonding, impact fees, other tax revenues or other financial sources; provided, that as between Developer and its Successors and Assigns, if any, entitled to reimbursement, Developer may designate and direct which portion of the Infrastructure Reimbursable Costs shall be paid first, which portion may only include Developer’s share of Infrastructure Reimbursable Costs.

vi. It is understood and acknowledged by the Parties hereto that the reimbursement obligation of the City and its RDA is limited to Available Tax Increment from the Project, and that if there is not sufficient Available Tax Increment generated from the Project to fully reimburse Developer and Successors and Assigns, if any entitled to reimbursement, that the City and its RDA shall have no further obligation to make up any short falls.

vii. Infrastructure that is not Backbone Infrastructure shall be the responsibility of the Developer, its Successors and Assigns. The City and the Agency will have no obligation to reimburse the Developer for infrastructure that is not Backbone Infrastructure unless agreed to by both parties by amendment to this Agreement, or by separate agreement.

viii. The land comprising the rights of way for the streets and the easements necessary for the Project shall be dedicated to City by the Developer in the course of development without reimbursement. Nothing regarding such dedication shall affect Developer's ability to seek tax or other credits for the donation value of the dedicated property.

7. Improvements to the Lake Promenade and Plaza Properties.

To ensure that the Lake Promenade and the Plaza Property are improved in accord with this Agreement and the Code, Developer agrees, as additional consideration for this Agreement, as follows:

a. Open Space Credit from the Lake Promenade and Plaza Properties and Geneva Park. Pursuant to Section 6 of the Code, the City agrees that Developer or any Successor and Assign who donate, develop or improve any portion of the Lake Promenade or any portions of the Adjoining Promenade Property or the Plaza Property or Geneva Park may credit that portion of the Lake Promenade Property and Plaza Property and Geneva Park so donated, developed or improved as part or all of the open space obligations of Developer and each such Successor and Assign. Only the Lake Promenade area and associated adjacent parking may be counted for purposes of calculating open space credit; the travel lanes of the adjacent streets will not be credited as open space.

b. Open Space and Lake Promenade Area north of Edge's Property. Developer has sold approximately 52 acres of area located in or near the Lake Front Residential and power line areas as generally depicted on the southwestern portion of the Town Center Map (the "Edge Property"). The Edge Property is located directly south of the western portion of the Lake Promenade. As a condition of approval on the Edge Property, certain improvements were required to the adjacent Promenade area. If Developer bonds for the completion of such improvements the related condition of approval shall be deemed satisfied and any building or permitting restrictions tied to those improvements shall be removed.

c. Construction of the Adjoining Lake Promenade Improvements. As part of an approved development, Developer will itself or will require each Successor and Assign of Property developing a portion of Property that abuts the corresponding half of the Lake Promenade Property (the "Adjoining Lake Promenade Property") to construct on the Adjoining Lake Promenade Property the improvements contemplated by the Code, as directed by the City (the "Lake Promenade Improvements"). The Lake Promenade Improvements shall be completed by Developer or each said Successor and Assign within eighteen (18) months after the City has approved and finalized the plans, budget and reimbursements for the Lake Promenade Improvements. Developer or each said Successor and Assign shall pay the first One Million Two Hundred Fifty Thousand dollars (\$1,250,000) of costs for the Lake Promenade improvements (the "Basic Promenade Improvements"); or its pro-rata share of such if developing a portion of the Adjoining Lake Promenade Property. The additional costs of the Lake Promenade

Improvements above and beyond the Basic Promenade Improvements are irrevocably considered Backbone Infrastructure and Infrastructure Reimbursable Costs and shall be reimbursed to Developer and each Successor and Assign pursuant to the terms of this Agreement.

8. Construction of Backbone Infrastructure.

- a. At any time, the City or Agency shall have the right to construct at its own expense any portion of the Backbone Infrastructure and Developer and each Successor and Assign shall fully cooperate with such efforts.

9. Reimbursement Submittal and Payment.

- a. Construction approval and reimbursement submittal for Backbone Infrastructure shall proceed as follows:
 - i. Prior to commencing construction on any Backbone Infrastructure, Developer shall submit its request for proposal (“RFP”) to City’s public works department for review of the bid package relating to the Backbone Infrastructure project under consideration. City shall within five (5) business days approve or comment on the RFP. Any accepted modifications will be made by Developer within five (5) business days and distributed to potential contractors for bid, including any contractors City requests. Developer shall have the discretion to determine whether a potential contractor is qualified for purposes of completing the project associated with the RFP. Developer shall receive bids from at least three (3) contractors for each Backbone Infrastructure project.
 - ii. Upon the selection by Developer of a contractor for a Backbone Infrastructure project, Developer shall promptly notify City and request a pre-construction meeting with City’s public works department.
 - iii. During construction of a Backbone Infrastructure project, Developer and City will meet regularly to review the construction schedule, budget, proposed modifications to the approved scopes of work, etc. Developer shall provide to City on at least a monthly basis, a progress schedule and progress budget.
 - iv. At the conclusion of each Backbone Infrastructure project, Developer shall submit to City the approved budget, invoices, and payment history for such project. Reimbursement for each Backbone Infrastructure project shall be per the terms outlined in this Agreement.
 - v. If a Backbone Infrastructure project includes infrastructure that will be dedicated or owned or maintained by City, Developer and City will

attend a “punch list” meeting within thirty (30) calendar days of the completion of such project to coordinate the turn-over of the project to City ownership and/or maintenance (the “Punch List Meeting”). Any items identified in the Punch List Meeting that City and Developer agree are deficient (the “Punch List Items”) shall be rectified by Developer within ninety (90) days and submitted to the City for review. City shall within ten 10 working days review the Punch List Items for satisfaction, and upon satisfactory completion of such items, shall assume ownership or maintenance of the subject infrastructure. Nothing in this section shall relieve Developer of its obligations to provide the necessary warranty associated with any Backbone Infrastructure.

10. Notices. Any notices, request and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the City: Vineyard City
Attn.: Mayor
125 S. Main St.
Vineyard, UT 84059

To the RDA: Vineyard Redevelopment Agency
Attn.: Board Chair
125 S. Main St.
Vineyard, UT 84059

To Developer: Anderson Geneva, LLC
Attn.: Pete Evans
9537 South 700 East
Sandy, Utah 84070

and

Ice Castle Retirement Fund, LLC
c/o Glen R. Pettit
2264 West Williamsburg Circle
West Jordan, Utah 84084;

With a Copy to: David E. Gee, Esq.
Parr Brown Gee & Loveless, P.C.
185 S State St., Suite 800
Salt Lake City, Utah 84111-1537

Burt Ringwood
Strong & Hanni, PC
9350 S. 150 E., Suite 820
Sandy, UT 84070

Any Party may change its address for notice by giving written notice to the other Party in accordance with the provisions of this Section.

11. General Term and Conditions.

a. Attorneys' Fees. In the event of any lawsuit between the Parties hereto rising out of or related to this Agreement, or the Project, the prevailing Party or Parties shall be entitled in addition to the remedies and damages, if any, awarded in such proceeding, to recover its or their costs and reasonable attorneys' fees.

b. Remedies. Upon the occurrence of any material breach of this Agreement, the non-breaching party shall have the right to exercise all of the following rights and remedies against the breaching party:

i. Only those remedies available in equity including but not limited to injunctive relief and specific performance are available to the non-breaching party as a remedy. No compensatory damages of any kind shall be available to any Party for a breach of this Agreement no matter the cause of the breach or fault of the party; and

ii. Nothing in this Section or this Agreement shall be construed as providing the City or Agency the right to declare all parties to this Agreement deemed "Developer" or a "Successor and Assign" to be in breach upon the occurrence of any breach by a single Developer or any single Successor and Assign. All parties shall be responsible for their own material breaches only. To facilitate the enforcement of the rights and obligations set forth in this Agreement when portions of the Property are transferred to a Successor and Assign, Developer may elect to propose that the Successor and Assign enter into a separate agreement with City to govern the construction or development of a particular portion of the Property. City agrees to cooperate with the preparation and execution of any such separate agreement.

c. Integration. This Agreement, together with the Exhibits hereto, integrates all the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements or previous agreements between the parties, whether oral or written with respect to the subject matter hereof any amendments hereto must be in writing and signed by the respective Parties hereto.

d. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

e. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their respective heirs, representatives, officers, agents,

employees, members, and affiliates including, without limitation, Successors and Assigns of Developer.

f. Non-Liability of City and Agency Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City or Agency shall be personally liable to Developer, or any Successors and Assigns for any default or breach by the City or Agency, or for any amount which may become due to Developer, or any Successors and Assigns, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for his or her own individual acts or omissions.

g. No Third Party Rights. The obligations of Developer set forth herein shall not create any rights in and/or obligations to any persons or parties other than the City, Agency, Developer and Successors and Assigns.

h. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate in good faith with respect to all such future agreements.

i. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, or business arrangement between the City, Agency, Developer, Successors and Assigns.

j. Performance. Each Party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other Party, Successors and Assigns or person and/or entity governed by this Agreement, the development of any portion of the Property.

k. Applicable Law. This Agreement is entered into under and pursuant to and is to be construed and enforceable in accordance with the laws of the State of Utah.

l. Construction. No presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

m. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any Party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City or Agency shall be promptly given or withheld by the City or Agency in compliance with this Agreement and the Applicable City Laws.

n. Approval and Authority to Execute. Each of the Parties represents and warrants as of the date this Agreement is executed that it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

o. Termination. If a Party or a Successor and Assign is in material default of this Agreement, another Party may affect a termination of this Agreement by giving written notice of intent to terminate to the defaulting party. Whereupon the defaulting party shall have sixty (60) days during which such party shall be given an opportunity to correct any alleged deficiencies and to take appropriate steps to cure any default. Notwithstanding the foregoing, if the default cannot reasonably be cured within that sixty (60) day period, a defaulting party shall not be in default so long as that party commences to cure the default within that sixty (60) day period and diligently continues such cure in good faith until complete.

p. No Waiver. Any Party's or Successor's and Assign's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The party intended to be benefited by the provisions may waive the provisions only in writing, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

q. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

r. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, moratoriums, regulations or controls; judicial orders; severe national or regional economic distress or conditions that affect financing markets and real estate development; enemy or hostile government actions; wars, civil commotions; fires, natural disasters, or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder ("Events of Force Majeure") shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

s. Recordation. This Agreement shall be recorded upon the Property.

t. Estoppel Certificate. Within fifteen (15) business days following delivery to any Party of a written request for an estoppel certificate respecting the status of performance under this Agreement and including a proposed form for that estoppel certificate, the party to whom that request was delivered shall deliver to the requesting party a reasonable estoppel certificate respecting such matters. That certificate shall be addressed to any lenders, purchasers, government agencies or other individuals or entities designated by the requesting party. A Party's failure to deliver such estoppel certificate (or make specific written objections to the form thereof) shall be presumed to mean that such party is not aware of any defaults or delinquencies under the Agreement and is later estopped from asserting the same.

u. Amendment. This Agreement may be amended only in writing signed by the Parties hereto. Additionally, amendments impacting specific portions of the Property which have been sold or transferred by Developer shall require the agreement of the Successors and Assigns which own the portion of the Property that is the subject of the amendment.

v. Developer is comprised of two entities: AG and Ice Castle. AG and Ice Castle are tenants-in-common with respect to the Property and are not affiliates or under common ownership. AG and Ice Castle shall each only be liable and obligated to perform hereunder with respect to their respective undivided interests in the Property and shall not be responsible for the performance by or for the obligations of the other tenant-in-common. Notwithstanding any other provision of this Agreement or at law, the tenants-in-common comprising Developer are not jointly and severally liable with respect to any agreements, obligations, liabilities or covenants of each other. The sole recourse of the City and the RDA against the Developer under this Agreement shall be limited to the respective undivided interests of AG or Ice Castle in the Property and neither the City nor the RDA shall be entitled to pursue the separate assets of AG and Ice Castle or their respective owners, managers or members.

[Signatures on following pages]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

VINEYARD CITY

By: _____
Name:
Title: Mayor

VINEYARD REDEVELOPMENT AGENCY

Attest:

By: _____
Name:
Title: Chair

By: _____
Secretary

ANDERSON GENEVA, LLC

By: _____
Name: Peter Evans
Title: Manager

ICE CASTLE RETIREMENT FUND, L.L.C.
By its Manager Pro Management Utah, LLC

By: _____
By: Glen R. Pettit, Manager

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

In the County of Utah, State of Utah, on this ____ day of October 2019, before me, the undersigned notary, personally appeared _____ and _____, the Chair and the Secretary, respectively, of Vineyard City, who are personally known to me or who proved to me their identities through documentary evidence to be the persons who signed the preceding document in my presence and who swore or affirmed to me that their signatures are voluntary.

Notary signature and seal

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

In the County of Utah, State of Utah, on this _____ day of October 2019, before me, the undersigned notary, personally appeared _____ and _____, the Chair and the Secretary, respectively, of the Vineyard Redevelopment Agency, Utah, who are personally known to me or who proved to me their identities through documentary evidence to be the persons who signed the preceding document in my presence and who swore or affirmed to me that their signatures are voluntary.

Notary signature and seal

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

In the County of Salt Lake, State of Utah, on this ____ day of October 2019, before me, the undersigned notary, personally appeared Peter Evans, the Manager of Anderson Geneva, LLC, who is personally known to me or who proved to me his identity through documentary evidence to be the person who signed the preceding document in my presence and who swore or affirmed to me that his signature is voluntary.

Notary signature and seal

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

In the County of Salt Lake, State of Utah, on this ____ day of October 2019, before me, the undersigned notary, personally appeared Glen R. Pettit, the Manager of Pro Management, Utah, LLC which is the Manager of Ice Castle Retirement Fund, LLC, who is personally known to me or who proved to me his identity through documentary evidence to be the person who signed the preceding document in my presence and who swore or affirmed to me that his signature is voluntary.

Notary signature and seal

EXHIBIT A: The Property Legal Description

Exhibit B: The Code

Exhibit C: Lake Promenade Property Map

Exhibit D: The Town Center Map

EXHIBIT E: The Backbone Infrastructure

1. Construction of Main Street roadway from the Vineyard Connector on the south and to at least the anticipated connection with the Vineyard Connector on the north and west (“Main Street”)
2. Construction of sewer mains, lines, and facilities to align with Main Street
3. Construction of water mains, lines, and facilities to align with Main Street
4. Construction of storm drain lines and facilities to align with Main Street
5. Construction of gas and electrical lines and facilities to align with Main Street
6. Construction of lighting, sidewalks, curb, gutter, parking, walls and fencing, and landscaping along Main Street
7. Design and construction of streets, and associated improvements from right-of-way to right-of-way, shown on the Town Center Plan as shown in Exhibit “D” (the “Backbone Streets”)
8. Design and construction of sewer mains, lines, and facilities to align with Backbone Streets
9. Design and construction of water mains, lines, and facilities to align with Backbone Streets
10. Design and construction of storm water lines and facilities to align with Backbone Streets
11. Construction of gas and electrical lines and facilities to align with Backbone Streets
Construction of lighting, sidewalks, curb, gutter, parking and landscaping along Backbone Streets
12. Design and construction of structured fill and structured parking facilities in the Town Center Station, Town Center Mixed Use, Village Office, and Lake Front Commercial districts.
13. Design and construction of roads, sidewalks, curb, gutter, lighting, landscaping, bike lanes and parking areas along the Lake Promenade
14. Design and construction of improvements to the Lake Promenade, Plaza Properties, and Geneva Park as provided in the Code and as determined by the City and Agency
15. Design and construction of power and gas line and facilities to service the Property
16. Design and construction of train station improvements including associated parking facilities and trails from the parking facilities to the train station

